



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.

Rulemaking 06-04-009

REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON DRAFT WORKSHOP REPORT

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I. INTRODUCTION

Pursuant to the August 21 and 28, 2006, Administrative Law Judge's Rulings and the August 21, 2006, directions by the Commission's Division of Strategic Planning (DSP), Pacific Gas and Electric Company (PG&E) submits its reply comments on the August 21, 2006 Draft Workshop Report ("Draft Report") on Phase 1 issues regarding a greenhouse gas emissions performance standard (EPS) in this proceeding.

For the most part, the opening comments show further convergence on design and implementation of a "gateway" EPS that would apply primarily to "new steel in the ground" consistent with the intent and requirements of SB 1368 as passed by the Legislature. However, in a few instances, some parties have made proposals that appear to be at odds with the consensus approach that PG&E's believes both SB 1368 and the Draft Workshop Report would follow. Therefore, PG&E's reply comments respond to the following six comments or issues raised by other parties which PG&E believes are inconsistent with this consensus approach: (1) Calpine's recommendation that system purchases under contracts with unspecified sources be deemed to violate the EPS; (2) Various parties' evaluation as to whether a 1,000 lb CO₂/kMWhr standard would permit all existing gas-fired generation to continue to operate, or not; (3) Various

parties' comments on how compliance with the "gateway" standard for the EPS should be demonstrated and documented; (4) Constellation's and California Cogeneration Council's (CCC's) recommendations that utility-owned generation be required to re-demonstrate compliance with the EPS; (5) Various parties' opposition to permitting exemptions from the EPS on a case-by-case basis for reliability, customer impact or R&D reasons; and (6) CEED's submittal of various pieces of documentary evidence that it asserts demonstrate that the EPS proposed by the CPUC staff would not take into account issues relating to cost, fuel diversity and resource adequacy.

II. CALPINE'S RECOMMENDATION THAT SYSTEM PURCHASES UNDER LONG-TERM CONTRACTS WITH UNSPECIFIED RESOURCES BE PROHIBITED

Calpine recommends that the EPS bar utilities from entering into long term commitments with unspecified resources, arguing that permitting such unspecified resources would be inconsistent with the fundamental policy of the EPS. (Calpine Comments, pp. 4-5.) PG&E disagrees with Calpine, because the EPS should allow utilities and other load serving entities maximum flexibility to procure needed resources for reliability and resource adequacy purposes, as long as a reasonable estimate of the GHG emissions of the resources can be used for EPS compliance purposes, either through information on the specific resources or through a "proxy" which reasonably estimates or imputes the characteristics of the resources. Although PG&E does not at the present time plan to enter into long term system purchases to fulfill its needs, it is prudent to maintain maximum flexibility for us to do so, as long as there is a reasonable method for ensuring that such system purchases do not permit a material evasion of the EPS. Moreover, Calpine does not criticize the specific methodologies for the various "proxies" proposed by the parties for use in imputing emissions from unspecified resources, so its assumption that such

proxies are inadequate is not supported and should be rejected.

III. COMMENTS ON WHETHER THE EPS SHOULD BE SET AT 1,000 LBS CO2/MWHR VS. 1,100 LBS CO2/MWHR

Most parties appear to be converging at either a 1,000 lbs CO2/MWhr EPS standard, or a 1,100 lbs CO2/MWhr standard. PG&E believes the issue is not trivial, but is critical to the policy and feasibility of the EPS in light of the Commission’s reliability and resource adequacy goals. PG&E agrees with SDG&E that the EPS should be set at no lower than 1,100 lbs CO2/MWHR, not the 1,000 lbs standard proposed in the Draft Workshop Report. (SDG&E Comments, pp. 3- 5.) As SDG&E points out, the data in this proceeding indicates that only if the standard is set at no lower than 1,100 lbs will the full range of existing CCGTs be able to continue to operate (absent the explicit CCGT exemption in SB 1368.). This point was also numerically illustrated in PG&E’s opening comments (PG&E Comments, pp. 12, table). Moreover, because SB 1368 “grandfathers” existing CCGTs under the standard, SB 1368 fairly can be interpreted to embody an overall intent that the EPS apply only to new facilities, not existing facilities (New Public Utilities Code section 8341(d)(1).) Finally, it is clear from the data cited in the Draft Workshop Report that an 1,100 lbs standard will convincingly meet the “no backsliding” goal of this proceeding, while at the same time avoiding the administrative burden and commercial uncertainty that would accompany a lower standard. A lower standard can only result in implementation delay and increased costs with no significant benefit toward the overall goal.

IV. DEMONSTRATING COMPLIANCE WITH THE “GATEWAY” STANDARD

To the best of PG&E’s knowledge, all interested parties support the “gateway” standard proposed by the Draft Workshop Report for demonstrating compliance with the EPS. PG&E agrees with the “gateway” standard, because it provides for regulatory simplicity, certainty and

transparency, especially given that the EPS will be an interim standard while AB 32's "cap and trade" program is developed.

In this regard, it is important that the Commission affirm the key elements in demonstrating compliance at the upfront "gateway." These elements are administratively simple and objective: Compliance is demonstrated at the time of Commission approval or issuance of a certificate of public convenience and necessity or permit to operate, through documentation of the full load heat rate of the unit at ISO conditions. Use of a full load heat rate facilitates a compliance process which meets the goals of this proceeding and is less likely to result in delays or uncertainty in procuring resources. Such delays or uncertainty could have an adverse effect on costs or reliability. Given the availability and acceptance of full load heat rate data throughout the industry, this approach provides a simple and objective means for the Commission and interested parties to not only document compliance with the EPS, but also know upfront, during their procurement planning, how the EPS will affect their resources plans.

V. APPLICATION OF THE EPS TO UTILITY OWNED GENERATION

Constellation and PG&E and several other parties agree that the EPS ideally should apply only to new facilities, i.e. "new steel in the ground." However, in anticipation that the Commission may apply the EPS to some existing facilities as well as repowered facilities, Constellation alternatively argues that if existing or repowered baseload facilities are subject to the EPS when new contracts are entered into, then utility retained generation also should be re-reviewed under the standard. (Constellation Comments, p. 7.) CCC make the same argument. (CCC Comments, pp. 3- 4). PG&E disagrees. Once a utility-owned powerplant demonstrates compliance at its initial CPCN or permitting stage, it should be treated the same as any other long-term commitment that happens to be for the economic life of the resource, i.e. it does not re-demonstrate its compliance unless it is repowered or upgraded in such a way that its design

capacity has increased. Requiring the utility to re-demonstrate compliance in the absence of repowering or an increase in capacity would discriminate against utility owned generation when compared to other long term procurement commitments.

VI. EXEMPTIONS FROM THE EPS

IEP, NRDC and some other parties recommend that the Commission restrict or prohibit the availability of exemptions from the EPS, such as R&D, reliability or economic exemptions, even if the exemptions are limited to a case-by-case basis. (NRDC, pp. 14, 18; Calpine, pp. 5- 6; IEP, p. 3). PG&E believes that any such “straitjacket” on Commission flexibility would be imprudent as well as potentially dangerous. California’s Energy Action Plan (EAP) stresses reliability and resource adequacy, and strikes a balance between the preferred loading order and the timely procurement of a diverse portfolio of resources in order to ensure reliable and affordable electricity. Put bluntly, California’ energy policies since the 2000- 2001 energy crisis provide the clear intent that “never again” will California shackle itself to an inflexible resource procurement system that provides no “safety valves” in the event that changed circumstances require immediate action to “keep the lights on.” In the workshops in this proceeding, all parties universally agreed that one of the highest priorities should be that the EPS should be designed and implemented to ensure reliability.

Thus, the EPS should affirm, rather than deny, the availability of case-by-case exemptions from the EPS where the Commission determines, for good cause shown, that such exemptions are necessary in order to maintain or ensure that reliable electricity can be provided to California consumers and businesses at affordable prices.^{1/} PG&E agrees that the burden

^{1/} A case-by-case exemption for R&D projects also should be available, on a case-by-case basis, simply because California should maintain incentives for new, clean technologies that may diversify the amount and kinds of resources available in the marketplace over the long term.

should be on the applicant for an exemption to demonstrate that any such exemption has compelling reliability or economic benefits or, in the case of an R&D project, may hold promise for reducing emissions based on development of a new technology.

VII. CEED'S NEW EVIDENCE

The Center for Energy and Economic Development (CEED) filed comments that included multiple attachments that purport to be relevant studies or technical evaluations of the Draft Workshop Report. (CEED Comments, p.2.) Unfortunately, PG&E believes most of CEED's "new evidence" is irrelevant to the issues in this proceeding. First, to the extent CEED is recommending that the Commission not adopt an EPS set at a level of emissions of combined cycle gas turbine facilities, PG&E believes the California Legislature already has decided that in SB 1368. (New Public Utilities Code section 8341(d)(1).) Second, to the extent that CEED argues that the EPS will be too costly for utility customers, PG&E believes that a broad array of parties in the proceeding, including investor-owned utilities, generators, and electric service providers, have converged on a proposed EPS of 1,100 lbs CO₂/MWhr, applicable to long term commitments for baseload generation only, that they believe would impose no new or undue economic burdens on utility customers compared to their procurement plans for new generation in the absence of the EPS. Third, even if the EPS were to result in unforeseen economic burdens on utility customers, PG&E believes that the "safety valves" that it and other parties have proposed in this proceeding for reliability, economic and R&D circumstances should provide sufficient flexibility to mitigate any such burdens as they arise.

Finally, PG&E agrees with CEED that flexible access to a diverse portfolio of resources is an important part of any GHG program, whether under an EPS or a "cap and trade" approach. Given that the EPS is an interim standard only, and is intended to give way to a "cap and trade"

program under either AB 32 or national legislation, PG&E believes that there will be an opportunity to address the broader market access issues when the “cap and trade” program is designed.

VIII. CONCLUSION

For the reasons stated in these reply comments as well as PG&E’s other comments and evidence submitted in this proceeding, PG&E requests that the Commission adopt an EPS consistent with PG&E’s recommendations.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of "**REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON DRAFT WORKSHOP REPORT**" on the parties listed below and the parties listed in the official service list for R.04-04-009 by

- transmitting an e-mail message with the document attached to each party on the official service list providing an email address; or
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Executed on September 15, 2006, at San Francisco, California.

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THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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Commissioner Assigned: Michael R. Peevey on April 17, 2006; ALJ Assigned: Jonathan Lakritz on May 9, 2006

ALJ Assigned: Meg Gottstein on April 17, 2006

CPUC DOCKET NO. R0604009 CPUC REV 09-13-06

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CPUC DOCKET NO. R0604009

Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework and to
Examine the Integration of Greenhouse Gas Emissions
Standards into Procurement Policies.

Rulemaking 06-04-009

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